

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHENECQUA BUTT, ALLEGRA KING
and TANYA MITCHELL

Plaintiffs

v.

UNITED BROTHERHOOD OF CARPENTERS
& JOINERS OF AMERICA, CARPENTERS HEALTH
AND WELFARE FUND OF PHILADELPHIA
AND VICINITY, EDWARD CORYELL and
MARK DURCKLEC

Defendants

CIVIL ACTION
NO. 09-4285 (MMB)

MOTION TO DISMISS FIRST AMENDED COMPLAINT

Defendants Metropolitan Regional Council of Carpenters, Southeastern Pennsylvania, State of Delaware and Eastern Shore of Maryland, United Brotherhood of Carpenters and Joiners of America¹ ("MRC"), Carpenters Health and Welfare Fund of Philadelphia and Vicinity ("Fund"), Edward Coryell and Mark Durkalec² through undersigned counsel, move this Court to dismiss Plaintiff Shenecqua Butt, Allegra King and Tanya Mitchell's First Amended Civil Action Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6). In support thereof, Defendants aver the following:

1. On November 4, 2009, Plaintiffs filed an Amended Civil Action Complaint in which it is alleged that Defendants have engaged in gender and racial discrimination in violation of Title VII of the Civil Rights Act of 1964 and racial discrimination in violation of 42 U.S.C. Section 1981 as well as retaliation under both statutes.

¹ Incorrectly identified in the First Amended Complaint as United Brotherhood of Carpenters & Joiners of America.

2. In support of their allegations, Plaintiffs fail to provide material facts that raise their claims against Defendants above speculative and sufficiently to establish the required elements.

3. Under Rule 12(b)(6), a complaint must be dismissed where the complainant has “failed to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6).

4. Defendants hereby incorporate the arguments set forth in the accompanying Memorandum of Law.

WHEREFORE, Defendants respectfully request dismissal of Plaintiffs’ First Amended Complaint for a failure to state a claim upon which relief can be granted.

Respectfully submitted,

JENNINGS SIGMOND, P.C.

BY: /s/ Marc L. Gelman
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Date: February 19, 2010

² Incorrectly identified in the First Amended Complaint as “Durcklec.”